

Exhibit HH

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on behalf)	
of himself and all others)	
similarly situated,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	1:08-cv-09361-
)	PGG-HBP
v.)	
)	
RITE AID CORPORATION, RITE)	
AID OF NEW YORK, INC.,)	
and FRANCIS OFFOR as)	
Aider & Abettor,)	
)	
Defendants.)	

- - -

The deposition of LUCILLE C. HULSEY, taken on behalf of the Defendants, pursuant to the stipulations agreed to herein, before JoRita B. Meyer, Registered Merit Reporter, Certified Realtime Reporter, Certified Court Reporter, at Ogletree, Deakins, One Ninety One Peachtree Tower, 191 Peachtree Street, N.E., Suite 4800, Atlanta, Georgia, commencing at 10:00 a.m., August 2, 2011.

1 Aid actually made that acquisition.

2 Q. And that was up until 2009?

3 A. Yes, sir.

4 Q. And why did you leave Rite Aid?

5 A. I left because they -- they said I
6 falsified a time report.

7 Q. What do you mean?

8 A. Changed the time on a time report.

9 Q. A time report for another employee?

10 A. Yes, sir.

11 Q. An employee that you were managing?

12 A. Yes, sir.

13 Q. And who was that employee?

14 A. Jennifer Deese.

15 Q. You had actually -- you had hired
16 Ms. Deese, correct?

17 A. Yes, sir.

18 MS. RUBIN: Objection.

19 BY MR. TURNER:

20 Q. You interviewed Ms. Deese, correct?

21 A. Yes, sir.

22 Q. And then you made the decision to hire
23 her?

24 MS. RUBIN: Objection to form.

25 BY MR. TURNER:

1 Q. Correct?

2 A. It wasn't my final decision to hire.

3 Q. We'll talk about -- let's talk about
4 Ms. Deese. Ms. Deese -- did you know Ms. Deese
5 before she began working at Rite Aid?

6 A. I did.

7 Q. And how did you know her?

8 A. She was married to my second cousin.

9 Q. And did you suggest to her that she seek
10 employment at Rite Aid?

11 A. No, sir.

12 Q. She asked you about seeking employment
13 at Rite Aid?

14 A. Yes, sir.

15 Q. And did you tell her how to fill out an
16 application and seek employment?

17 A. I gave her an application to fill out.

18 Q. And she filled it out?

19 A. Yes, sir.

20 Q. And she returned it?

21 A. Yes, sir.

22 Q. And then you interviewed her, correct?

23 A. Yes, sir.

24 Q. And did you make the decision to
25 interview her?

1 A. Yes, sir.

2 Q. And did anyone else participate in that
3 interview?

4 A. No, sir.

5 Q. You then made a recommendation that
6 Ms. Deese be hired, correct?

7 A. Well, she did what she had to do on the
8 computer and all, and then after all that came
9 back okay, then, you know, you can hire them.

10 Q. Well, on the computer, you're talking
11 about Quickscreen, correct?

12 A. Quickscreen, and you had to punch their
13 social security number into the system, make sure
14 that came back okay. There was three steps you
15 had to do before you could actually hire them.

16 Q. And those --

17 A. Background check.

18 Q. And those were all things to determine
19 if they were eligible to be hired, correct?

20 A. Yes, sir.

21 Q. And once the computer -- once you had
22 done the Quickscreen, background check, and the
23 bringing the social security number in, if it came
24 back and they were eligible to be hired, you could
25 then make a recommendation -- or strike that.

1 MS. RUBIN: Objection.

2 THE WITNESS: Yes, sir.

3 MR. TURNER: What is your objection?

4 MS. RUBIN: Compound question.

5 BY MR. TURNER:

6 Q. And in fact, you did discipline
7 employees for failing to do the job that you
8 assigned to them, correct?

9 A. Yes, sir.

10 Q. You also gave Mr. Luker authority to
11 discipline employees for failing to do the jobs he
12 assigned to them when you were not present,
13 correct?

14 A. Yes, sir.

15 Q. And he was your assistant manager,
16 correct?

17 A. Yes, sir.

18 Q. You commended Mr. Luker on -- well,
19 strike that.

20 You said also you could discipline
21 employees for not completing the job, correct?

22 A. Yes, sir.

23 Q. And you did that, correct?

24 A. Yes, sir.

25 Q. And then you said that you couldn't call

1 the DM for every little thing in the store?

2 A. That's right.

3 Q. Your district manager was not running
4 your store, was he?

5 A. To some extent, yes.

6 Q. To what extent?

7 A. On some --

8 Q. Go ahead.

9 A. Well, all right. Say just for what we
10 were just talking about. If an employee, say, you
11 told them to hang the signs up, they didn't get
12 the signs hung up, then you didn't run and call
13 your district manager and say, hey, look, Susie
14 didn't hang the ad signs; what do you want me to
15 do?

16 But if you had something that you
17 thought an employee was stealing or you had an
18 employee that kept calling in a lot, then you
19 would have to call the district manager and say,
20 look, this is the problem; what do I do?

21 Q. How often did your -- strike that.

22 How many district managers did you have
23 who were responsible for your -- for you and your
24 district?

25 A. Three.

1 Q. In 2007, 2008, and 2009 you had three?

2 A. Yes, sir.

3 Q. Who were they?

4 A. Bobby Little, Frank Krake, Keith
5 Draughton.

6 Q. And how would you describe Bobby
7 Little's management style?

8 A. He -- whatever he told you to do, he
9 meant for you to do it. He was highly respected,
10 and I never had a problem doing anything he asked
11 me to do because of the way -- the type person he
12 was. He wasn't like a dictator.

13 Q. Were any of the other district managers
14 like a dictator?

15 A. Keith was my worst district manager.

16 Frank Krake really wasn't my district
17 manager for that long of a period of time. Frank
18 Krake had been market manager when we first went
19 into the acquisition from Harco to Rite Aid. Then
20 he was made district manager at one point.

21 Q. What made Keith your worst DM?

22 A. I just don't think that he really -- we
23 really connected.

24 Q. In what way?

25 A. I really don't know. I just sensed that

1 whole store, and the pharmacists just came in.

2 Q. And then at Rite Aid, what you're saying
3 is that the pharmacist did the scheduling?

4 A. Yes, sir. They did -- they did their
5 own hiring and they did their own scheduling.

6 Q. In your store?

7 A. Yes, sir.

8 Q. You don't know whether that was the case
9 in all other stores, do you?

10 A. No, sir.

11 Q. You don't even know if that was the case
12 in other stores in your district, do you?

13 MS. RUBIN: Objection to form.

14 THE WITNESS: The pharmacists in the
15 stores, if they had a regular pharmacy
16 manager, it's my understanding that they did
17 their own hiring.

18 BY MR. TURNER:

19 Q. If they had a regular pharmacy manager?

20 A. Yes, sir.

21 Q. And when they didn't have a regular
22 pharmacy manager, you don't know, do you, what
23 happened?

24 A. Well, I can't really tell you what went
25 on in the other stores.

1 Q. Why is that?

2 A. Because I wasn't there, for one reason.

3 And I had a full-time job taking care of my own.

4 Q. Your own what?

5 A. My own store.

6 Q. All right. So going back to the
7 schedule for the front end, you'd have another
8 cashier come in around 4:15?

9 A. Yes, sir.

10 Q. And you would have one come in around
11 12:15?

12 A. Yes, sir.

13 Q. And what would happen with the one that
14 had come in around 12:15?

15 A. If I had hours, they would stay till
16 9:15.

17 Q. So you would have the cashier that came
18 in at 12:15 and the cashier that came in at 4:15?

19 A. Yes, sir.

20 Q. How many hours a day, on a normal day,
21 not a truck day, a normal day, how many hours did
22 you typically work when you came in at 7 or
23 7:15 a.m. and opened the store?

24 A. I cannot tell you the days that I worked

25 in that store from about 7 to 7:15 in the morning

1 till closing at night.

2 Q. How many days a week did you schedule
3 yourself to work?

4 A. Whatever I scheduled myself to work was
5 what I worked. I worked at least a half a day on
6 Saturday, and I worked five days during the week.

7 Q. And who would work the other half day on
8 Saturday if you weren't there, from a management
9 standpoint?

10 A. Whichever shift supervisor I scheduled
11 to work.

12 Q. And then on Sunday, would you have a
13 manager there?

14 A. Yes, sir.

15 Q. And who would that typically be? Shift
16 supervisor or assistant manager?

17 A. Shift supervisor. Sometimes it would be
18 assistant manager. Sometimes it was me.

19 Q. But typically, you tried to take Sundays
20 off?

21 A. Yes, sir.

22 Q. That was true during the last three
23 years of your employment?

24 A. That's really been true my whole
25 employment time. And I would always talk with my

1 district managers and try to work out to where I
2 could at least go to church on Sunday mornings and
3 then come in, because I'm pianist at church.

4 And then if it was a Sunday that I had
5 to work, I would always, you know, go to church
6 and then come in to work.

7 Q. All right. Then I think you said you
8 and Mr. Luker typically worked days.

9 A. Yes, sir.

10 Q. So was it usually Mr. Luker that was the
11 one coming in around 7:45 a.m.?

12 A. Yes, sir.

13 Q. Why did you choose not to have a
14 rotating schedule with Mr. Luker where Mr. Luker
15 would be there when you're not?

16 A. When Mr. Luker was hired, he was
17 hired -- he -- he said that he wouldn't be able to
18 work most nights nor weekends. And I so sort of
19 more or less worked with him for his scheduling.
20 All right.

21 At that particular time, he was just a
22 shift supervisor, and then Mr. Little came in and
23 he observed Mr. Luker, and he said that he needed
24 to be made a store manager -- I mean assistant
25 store manager.

1 what needs to be done and deciding who is going to
2 do it, correct?

3 A. Yes, sir.

4 Q. Maintaining store conditions is making
5 sure your employees are keeping the store clean,
6 correct?

7 A. Making sure the store is kept clean.

8 Q. Regardless of who is doing it, correct?

9 A. Right.

10 Q. And then organizing, what do you mean by
11 that?

12 A. Organizing what's got to be done. You
13 get a mailbag oncest a week, and whatever was in
14 that mailbag, you would organize your time and
15 your -- plan how to get it done.

16 Q. And that's something you did, correct?

17 A. Yes, sir.

18 Q. All right. Number 7, "What areas do you
19 need to develop? What assistance do you need?"
20 And you said, "Staffworks is still a weakness for
21 me. Assistance has already been provided to me
22 and has helped me."

23 Did I read that correctly?

24 A. Yes, sir.

25 Q. How were you scheduling in your store if

1 you were having problems using Staffworks?

2 A. You had to use Staffworks, and you just
3 had to figure it out. I mean, it wasn't an option
4 as to whether or not you wanted to do it.

5 And when I did this evaluation, probably
6 Staffworks was just a brand new tool to work with,
7 and I didn't fully understand how to do the
8 Staffworks, and so I would, you know, call another
9 store manager and work through it, make my
10 schedule using Staffworks. You didn't have an
11 option as to whether or not you wanted to use it.

12 Q. At least that was your understanding,
13 correct?

14 A. Correct.

15 Q. If other store managers were doing
16 handwritten schedules, they were doing it
17 different than you, correct?

18 A. You know what? Some people were
19 actually doing that. But then when you got caught
20 doing it, you got in trouble, you know.

21 Q. Were you doing handwritten schedules?

22 A. Not after we started doing this
23 Staffworks thing.

24 Q. But you knew other store managers were,
25 correct?

1 A. Yes, sir.

2 Q. So they were doing scheduling in a
3 different way than you, correct?

4 A. I guess.

5 Q. And Staffworks, did you ever come to
6 master Staffworks?

7 MS. RUBIN: Objection to form.

8 BY MR. TURNER:

9 Q. Strike that. Did you ever become more
10 proficient with Staffworks?

11 A. I did. And about the time I did, they
12 changed the thing.

13 Q. Okay. How did they change it?

14 A. Kronos.

15 Q. And how did that -- how did Kronos
16 change Staffworks?

17 A. It was a different -- it was a different
18 way you did it on the computer. It was totally
19 different.

20 Q. All right. Now, Staffworks, you would
21 put in information about employees' availability,
22 correct?

23 A. Right.

24 Q. And then it would give you a proposed
25 schedule, correct?

1 the schedule to accommodate employee call-outs,
2 correct?

3 A. Yes, sir.

4 Q. Or no-shows, correct?

5 A. Yes, sir.

6 Q. And you said in -- Number 8, "How can
7 your supervisor help you perform your job more
8 effectively?" And at the time your supervisor was
9 Keith Draughton, correct?

10 A. Yes, sir.

11 Q. And you said, "Listen to my concerns and
12 questions and respond with how he wants things
13 done."

14 Was he not doing that?

15 A. I just didn't really feel comfortable
16 with Keith a lot of times. I'll just be perfectly
17 honest with you. I hated to even have to call
18 him.

19 Q. So you tried not to?

20 A. I tried my best not to.

21 Q. How often do you think you called
22 Mr. Draughton when he was your DM?

23 A. Oh, I called him a bunch of times. Not
24 necessarily saying I wanted to, but there was lots
25 of times I had to call him. He called me, you

1 know.

2 Q. Did you call him on a daily basis?

3 A. No.

4 Q. Did you call him every other day?

5 A. No.

6 Q. Did you call him every third day?

7 A. No.

8 Q. Did you call him every week?

9 A. I probably called him at least oncest a
10 week.

11 Q. And he was calling you probably about
12 the same?

13 A. Sometimes it would be maybe just oncest
14 a week, depending on what the situation was.

15 Q. And then I think you told me he only
16 came to your store once every three months, on
17 average?

18 A. On an average basis, yeah.

19 Q. So on average, you would have a personal
20 visit with Mr. Draughton, your district manager,
21 once every three months and phone communication
22 once or twice a week; is that a fair statement?

23 A. Yes, sir.

24 Q. And were you otherwise communicating

25 with Mr. Draughton in any other form of

1 communication?

2 A. On SYSMs.

3 Q. And how often were you communicating
4 with him on SYSMs?

5 A. We would probably do that every day.

6 And we would have a managers meeting -- he tried
7 to have one at least every month.

8 Q. And the SYSMs, what kind of things would
9 you get in SYSMs?

10 A. Lists of things that he wanted to know
11 had been done in the store. You had a weekly list
12 that come out with plan-o-grams, you're up to date
13 on plan-o-grams.

14 Let's see. Price changes, where you
15 stood on price changes. And just different things
16 like that that he would send lists out for,
17 wanting to know.

18 Q. But those were things that were -- that
19 needed to be -- he was essentially confirming that
20 they had been completed, correct?

21 MS. RUBIN: Objection to form.

22 THE WITNESS: Yes, sir.

23 BY MR. TURNER:

24 Q. He wasn't telling you how to do them,
25 correct?

1 A. He was if they weren't done.

2 Q. I understand. But if you completed your
3 job, if you made sure that the things had been
4 done in the store, what he was doing was following
5 up to make sure that things had been accomplished,
6 correct?

7 A. Correct.

8 Q. Just like you were following up with
9 your subordinate employees to make sure that they
10 had completed their tasks that you had assigned to
11 them, correct?

12 A. Yes, sir.

13 Q. Did you ever think Mr. Draughton wasn't
14 your manager?

15 A. No, sir.

16 Q. Did you believe that your subordinate
17 employees didn't view you as their manager?

18 A. No, sir.

19 (Deposition Exhibit Number 3 was marked
20 for identification)

21 BY MR. TURNER:

22 Q. Ms. Hulsey, you have in front of you
23 what is marked as Exhibit 3. Have you seen that
24 document before today?

25 A. Yes, sir.

1 they could do their job better, correct?

2 MS. RUBIN: Objection.

3 THE WITNESS: Yes, sir.

4 BY MR. TURNER:

5 Q. And that was true regardless of what
6 task you were performing, correct?

7 A. Yes, sir.

8 Q. Is it fair to say that training for you
9 as a store manager was a constant ongoing process
10 with your employees?

11 A. Yes, sir.

12 Q. And the amount of time that you would
13 have to spend training varied employee by
14 employee, correct?

15 A. Yes, sir.

16 Q. Some people have strengths --

17 A. Yes, sir.

18 Q. -- that others don't, correct?

19 A. Correct.

20 Q. And some people have weaknesses that
21 others don't, correct?

22 A. Correct.

23 Q. And did you -- when you were training
24 some of your shift supervisors, did you ever talk
25 to your district manager, Bobby Little, who you

1 had a better relationship with, about which shift
2 supervisors you thought had what it took to go to
3 the next level?

4 MS. RUBIN: Objection to form.

5 THE WITNESS: Sometimes.

6 BY MR. TURNER:

7 Q. Just so we're clear, did you talk to
8 Bobby Little about shift supervisors working in
9 your store that you believed had the potential to
10 become assistant store managers?

11 A. No. Just shift supervisors.

12 Q. So hourly employees that you thought had
13 the potential to go to shift supervisor positions?

14 A. Correct.

15 Q. You would talk to Bobby Little about
16 that?

17 A. Yes, sir.

18 Q. What about Mr. Draughton?

19 A. Anytime that you was going to get
20 somebody promoted to a shift supervisor, you --
21 they were actually the ones that had to promote
22 them. You could recommend them, and they would
23 come and interview them. And if they didn't think
24 so, it was no.

25 Q. Do you agree that store managers are

1 responsible for making sure that the -- their
2 subordinate employees receive appropriate and
3 necessary training?

4 MS. RUBIN: Objection to form.

5 THE WITNESS: You mean training for what
6 they got to do for their job?

7 BY MR. TURNER:

8 Q. Yes, ma'am.

9 A. Yes, sir.

10 Q. Did you believe it was your
11 responsibility to provide necessary training to
12 your subordinate employees?

13 A. Yes, sir.

14 Q. And that was true to your assistant
15 manager, correct?

16 A. Yes, sir.

17 Q. And it was true to your shift
18 supervisors, correct?

19 A. Yes, sir.

20 Q. And it was true to all of the other
21 employees that worked in your store, correct?

22 A. Yes, sir.

23 Q. Did you expect that your assistant store
24 manager would provide similar training to the
25 subordinate employees?

1 then they sent him when they opened the new store
2 in Talladega, and he was the manager down there.
3 And he didn't stay in his store enough to know
4 what was going on and he had such really bad
5 shrinks, that he was given the ultimatum of leave
6 or get fired. And he left. They rehired him at
7 the store I was at, when I left.

8 Shortly after that, they took and put --
9 Lance Lockhart that was at the Oxford store, he is
10 over the Saks store, which is 7087, the store I
11 was at, which is 7084, and the store that he was
12 at was 7086. They have one manager for those
13 three stores now.

14 Q. Managing three stores at once would be
15 very different from what you did; do you agree
16 with that?

17 A. Yes, sir.

18 Q. In almost every aspect of the job,
19 correct?

20 A. Yes, sir.

21 Q. So how many hours a week -- when
22 Mr. Luker was promoted to assistant store manager,
23 how many hours a week was he working?

24 A. When they promoted him to assistant
25 store manager, he was on salary.

1 Q. I understand. But how many hours a week
2 was he working?

3 A. Fifty, until they put us on the 45-hour.

4 Q. And he was set at 50, and that's what he
5 worked every week?

6 A. Yes, sir.

7 Q. And during that same time frame -- you
8 told me earlier when you opened the store in 1999,
9 there were a lot of times you were there from open
10 until close.

11 2007 and 2008, how many hours a week
12 were you typically working?

13 A. Until they put us on the 45-hour thing,
14 I was -- lots of times I'd be there 65, 70 hours a
15 week.

16 Q. Sometimes less?

17 A. Not less -- not a whole lot less than my
18 50 hours that I was required to be there.

19 Q. Sometimes less than 50, but not very
20 often?

21 A. Sometimes, after my husband got really
22 bad sick, I might need to leave to go to the
23 hospital or something, and I would call whichever
24 one was my district manager, tell them, and they'd
25 tell me to go ahead and do what I had to do and

1 not worry about it. But it was a very rare
2 occasion.

3 Q. There was some times that you worked
4 less than the 50?

5 A. Yes, sir, there were some.

6 Q. And then there were times when you
7 worked the 50?

8 A. Yes, sir.

9 Q. And then there were times when you
10 worked as many as 65 to 70?

11 A. Yes, sir.

12 Q. Do you have records of your work hours?

13 A. No, because all we had to do was clock
14 in in the mornings when we got there.

15 Q. You didn't clock in, you logged in in
16 the cash register, right?

17 A. Yes, sir.

18 Q. And so how would we know how many hours
19 you worked in any specific week?

20 A. For me to keep up with, or for you?

21 Q. I'm just asking, how would you know?

22 A. Well, if I went in in the mornings
23 between 7 and 7:15 and stayed till 9 o'clock at
24 night and stayed down there five days a week and
25 then went back in on Saturday and worked at least

1 BY MS. RUBIN:

2 Q. When was --

3 A. Mainly, you know, if I've got to go in
4 and run the register, that's priority. You know,
5 you got to run the register. So then whenever I'd
6 get off the register, I'd run in and do some of my
7 manager's responsibilities. And you just played
8 it by ear, you know.

9 Q. Why did you work from 7 a.m. to closing
10 on some days?

11 MR. TURNER: Object to form.

12 THE WITNESS: That was what I'd have to
13 do to make sure that what needed to be done
14 was done. Wasn't what I wanted to do.

15 BY MS. RUBIN:

16 Q. In an emergency situation where you
17 decided to give an employee overtime, did you have
18 to then tell your district manager afterwards?

19 A. You would have to let him know why you
20 did it, yes.

21 Q. What would happen if you did not let him
22 know?

23 MR. TURNER: Object to form.

24 THE WITNESS: You'd get your phone call.

25 BY MS. RUBIN:

1 Q. Were you able to watch your employees
2 all the time when you were at the store?

3 MR. TURNER: Object to form.

4 THE WITNESS: Not all the time.

5 BY MS. RUBIN:

6 Q. Why?

7 A. Well, sometimes you'd be, like, in the
8 back doing plan-o-grams or doing things that
9 required you to be in the back part of the store.
10 You had your Red Dot program, per se. Okay? Your
11 Red Dot program was where whatever was in the
12 stockroom was overstock from what you had on your
13 shelf. All right.

14 You had to go back there, and you had to
15 check and make sure the Red Dot program was done.
16 You'd have to have certain sections that they
17 called it Friday Freshness that you'd have to do
18 for out-of-dates. And you weren't always, you
19 know, right where you could watch everything.

20 Q. Did you have any discussion over
21 determining your labor budget?

22 A. No, ma'am.

23 MR. TURNER: Object to form.

24 BY MS. RUBIN:

25 Q. If you were allowed to have more

1 employees, would you have been able to better
2 manage and carry out your management duties?

3 A. Yes, ma'am.

4 Q. Did you decide what vendors to use?

5 MR. TURNER: Object to form.

6 THE WITNESS: No, ma'am.

7 BY MS. RUBIN:

8 Q. Why not?

9 A. You had a list of vendors that they sent
10 out, and if you wanted to use -- if you wanted to,
11 like, get bread or something else other than what
12 they had listed, you could contact them and see if
13 you could get, like, bread in your store.
14 Sometimes you'd get an okay to do it. But the
15 vendors were all designated vendors.

16 Q. Designated by whom?

17 A. Corporate, I guess.

18 Q. When you were providing new paperwork
19 for a new hire, did you determine what paperwork
20 to use?

21 MR. TURNER: Object to form.

22 THE WITNESS: They sent you -- sent a
23 package, a new-hire employee package, and you
24 used what was in that package.

25 BY MS. RUBIN:

1 Q. Who is "they"?

2 A. Corporate.

3 Q. Did your district manager tell you what
4 to do ever?

5 MR. TURNER: Object to form.

6 THE WITNESS: Yes, ma'am.

7 BY MS. RUBIN:

8 Q. How often?

9 A. Well, you had --

10 MR. TURNER: Object to form.

11 THE WITNESS: -- all them things that
12 you had to do. And then sometimes he would
13 call and want you to do specific things,
14 per se, go measure the departments in your
15 store or just, I mean, he would tell you
16 things to do, different things.

17 BY MS. RUBIN:

18 Q. Why did you perform performance
19 appraisals?

20 MR. TURNER: Object to form.

21 THE WITNESS: I didn't understand you.

22 BY MS. RUBIN:

23 Q. Why did you perform performance
24 appraisals or performance evaluations of other
25 employees?

1 A. That was what I -- part of my job that I
2 had to do. I had to do their appraisals and then
3 send them in to be approved by the DM.

4 Q. Do you know what would have happened if
5 you complained to your district manager about
6 wanting to be compensated for more hours?

7 MR. TURNER: Object to form. Calls for
8 raw speculation.

9 BY MS. RUBIN:

10 Q. You can answer.

11 A. I don't know. I wouldn't -- I wouldn't
12 have confronted him, because I would have been
13 afraid to.

14 Q. Were there employees in your store who
15 could not work certain schedules?

16 A. Yes, ma'am.

17 Q. Did that affect how you were able to
18 schedule people into the system?

19 A. Yes, ma'am.

20 MR. TURNER: Object to form.

21 BY MS. RUBIN:

22 Q. Do you think that situations where you
23 were unable to use the full budget plan for hours
24 in the store were due to the fact that employees
25 were unable to work certain schedules?

1 THE WITNESS: Well, not very often. You
2 would -- like I said, when you first hired
3 one in, you would be with them till they felt
4 comfortable, and then you would go on trying
5 to do what you had to get done.

6 You were supposed to be allotted so many
7 hours per new hire for training, but that was
8 not so.

9 BY MS. RUBIN:

10 Q. Did you develop the training plans
11 yourself?

12 MR. TURNER: Object to form.

13 THE WITNESS: No, ma'am.

14 BY MS. RUBIN:

15 Q. Where did those training plans come
16 from?

17 A. Corporate.

18 Q. Would you say you spent more time doing
19 nonmanagerial duties than managerial duties?

20 MR. TURNER: Object to form.

21 THE WITNESS: Yes, ma'am.

22 BY MS. RUBIN:

23 Q. Why is that?

24 MR. TURNER: Object to form.

25 THE WITNESS: Because of the hours that

1 you had to work with, especially the last --
2 after we went on the 45-hour workweek.

3 BY MS. RUBIN:

4 Q. What was involved in facing shelves?

5 A. Pulling everything to the front.

6 Q. And where were your other employees when
7 you were facing the store?

8 A. I'd have one on the cash register most
9 of the time. That was it.

10 Q. Could you see that employee when you
11 were facing the store?

12 A. No, ma'am.

13 MR. TURNER: Object to form.

14 BY MS. RUBIN:

15 Q. How did you discipline employees?

16 MR. TURNER: Object to form.

17 THE WITNESS: It just varied as to what

18 the situation was. If it was a severe

19 situation, then you had to get in touch with

20 your district manager or security manager,

21 one, to get advice on what to do with it or

22 how to handle it.

23 If it was just a minor thing you just

24 handled it yourself.

25 BY MS. RUBIN:

1 Q. And does that --

2 A. A minor thing would be like being late
3 for work or calling in excessively.

4 Theft or failure to report to work a
5 bunch of times would involve getting the district
6 manager's opinion before you actually did
7 anything.

8 Q. So if it were a minor incident, what
9 would the discipline involve?

10 MR. TURNER: Object to form.

11 THE WITNESS: Most of the time, just
12 talking with them.

13 BY MS. RUBIN:

14 Q. Did you have to document that you talked
15 with them?

16 MR. TURNER: Object to form.

17 THE WITNESS: You would.

18 BY MS. RUBIN:

19 Q. You testified earlier that some of your
20 recommendations for giving a raise were not
21 accepted. Why was that?

22 A. Some of the amounts that I would turn in
23 would not be approved. If it was over their
24 amount that they said could be given and you felt
25 like that person deserved maybe a little bit more,

1 most of the time they would say no.

2 Q. Do you know why?

3 A. They just didn't want to pay more money,
4 I guess.

5 MR. TURNER: Object to form. Calls for
6 speculation.

7 BY MS. RUBIN:

8 Q. How many employees did you approve
9 vacations for?

10 A. I didn't have but just, let's see, about
11 three or four full-time employees in my store,
12 counting myself. The rest were part-time.

13 Q. Did you actually approve vacations for
14 all three or four, including yourself?

15 A. Yes, ma'am.

16 Q. You approved your own vacation?

17 A. I could take it most of the time
18 whenever I wanted to. We were supposed to turn
19 them in as to when we were going to take them.
20 But I more or less took it, you know -- I would,
21 like, send my district manager a SYSM and tell him
22 that I was wanting to take vacation such and such
23 a date, and most of the time he'd always send back
24 and say okay.

25 Q. Did you ever send anyone home, an

1 employee home, for violating some policy?

2 A. I sent one home -- I sent a couple home
3 for coming in with bluejeans on. And I sent one
4 home when they come in with, like, a halter top
5 on.

6 Usually just the dress code was about
7 the only thing. If they'd come in dressed out of
8 dress code, then I'd tell them go home and change.

9 Q. You testified that you were supposed to
10 handle complaints or grievances at the store
11 level. Could you explain what you meant by that.

12 A. We were supposed to handle anything at
13 store level within a 24-hour period of time. And
14 they didn't want it to go any higher.

15 Q. Who is "they"?

16 A. Like, district managers --

17 MR. TURNER: Object to form.

18 THE WITNESS: -- and people above them.

19 They didn't -- the district managers did not
20 want it to go above them.

21 BY MS. RUBIN:

22 Q. Who told you to check SYSMs three times
23 a day?

24 A. District managers.

25 Q. Did you ever eat your lunch and not do

1 work at the same time?

2 A. Yes, ma'am.

3 Q. How often was that?

4 A. It just varied. On truck day most of
5 the time I'd just grab a sandwich and go on back
6 out on the truck.

7 Like I said a while ago, when my husband
8 was really bad, I would try to go home basically
9 about the same time every day. Most of the time
10 I'd be gone for an hour.

11 Q. Do you know who made the decision to
12 start using clear bags for trash?

13 MR. TURNER: Object to form.

14 THE WITNESS: Corporate, I guess.

15 BY MS. RUBIN:

16 Q. I'd like to go back to Exhibit 7, the
17 store manager job description. Did this
18 description tell you to stock shelves?

19 MR. TURNER: Object to form. The
20 document speaks for itself.

21 BY MS. RUBIN:

22 Q. Did you stock shelves?

23 MR. TURNER: Object to form. Compound.

24 THE WITNESS: Yes, ma'am.

25 MS. RUBIN: My last question was not

1 compound.

2 MR. TURNER: You asked two questions
3 before she answered -- definitively asked two
4 questions before she answered. That would be
5 the definition of compound. You can strike
6 it and start again.

7 BY MS. RUBIN::

8 Q. So new question: Did you stock the
9 shelves?

10 MR. TURNER: Object to form.

11 THE WITNESS: I did. And if you'll read
12 Number 7, it was "Maintain merchandise
13 standards according to the POMP manual,
14 profit planner, corporate plan-o-grams, and
15 ongoing merchandise information."

16 It speaks for itself.

17 BY MS. RUBIN:

18 Q. Did doing nonmanagerial tasks prevent
19 you from being able to manage the way this Rite
20 Aid job description lays out the manager's
21 responsibilities?

22 MR. TURNER: Object to form.

23 THE WITNESS: Yes, ma'am.

24 BY MS. RUBIN:

25 Q. Were you able to effectively provide

1 good customer service when working on a
2 plan-o-gram?

3 MR. TURNER: Object to form.

4 THE WITNESS: Not effectively, because
5 you were concentrating on what you were
6 doing.

7 BY MS. RUBIN:

8 Q. Did you have the ability to terminate
9 employees?

10 A. No, ma'am, not without prior approval.

11 Q. Who would you get prior approval from?

12 A. From the district manager or the
13 security manager.

14 Q. Who set your store budget?

15 A. I guess corporate.

16 MR. TURNER: Object to form.

17 BY MS. RUBIN:

18 Q. Did you have any authority to change
19 your store budget?

20 MR. TURNER: Object to form.

21 THE WITNESS: No, ma'am.

22 BY MS. RUBIN:

23 Q. Do you believe that Rite Aid created a
24 budget policy that left most, if not all, stores
25 that you were aware of inadequately staffed?

1 MR. TURNER: Object to form.

2 THE WITNESS: Yes, ma'am.

3 MS. RUBIN: Those are all my questions.

4 F U R T H E R E X A M I N A T I O N

5 BY MR. TURNER:

6 Q. Ms. Hulsey, I have to ask you a few more
7 questions. Sorry about that.

8 Did you ever give prior approval to
9 terminate an employee?

10 A. Yes, sir.

11 Q. You made a recommendation that somebody
12 be terminated, correct?

13 A. Yes, sir.

14 Q. And your recommendation was followed,
15 correct?

16 A. Yes, sir, most of the time, because
17 whatever the reason was was a reason to be
18 terminated.

19 Q. And then you actually terminated the
20 employee, correct?

21 A. No. The security manager would come and
22 do it.

23 Q. On any occasion there was an employee
24 terminated in your store, the security manager
25 came?

1 MS. RUBIN: Object to form.

2 THE WITNESS: Or the district manager,

3 whichever district manager that I had. I

4 never terminated anybody on my own.

5 BY MR. TURNER:

6 Q. But you would make recommendations, and
7 those recommendations were followed, correct?

8 A. Yes, sir. In the situations that I had
9 to call them for, they were.

10 Q. And you were asked whether you could
11 change the store level budget. Do you recall
12 that, just a few minutes ago?

13 A. Yes, sir.

14 Q. You actually exceeded your store level
15 budget on occasion, didn't you?

16 A. I did.

17 Q. So while you couldn't actually change
18 the budgeted amount, you could go over or under
19 the budgeted amount based on your discretion,
20 correct?

21 MS. RUBIN: Object to form.

22 THE WITNESS: Yes, sir.

23 BY MR. TURNER:

24 Q. You were asked about approving vacation
25 time, and you said that you did approve vacation

1 time for the employees in your store who had
2 vacation?

3 A. Yes, sir.

4 Q. You also approved unpaid time off for
5 the employees who did not have vacation, didn't
6 you?

7 A. Yes, sir.

8 Q. And you were asked whether or not -- I
9 believe the question was whether most of the
10 stores were understaffed as a result of Rite Aid's
11 budgeting, or words to that effect. Do you recall
12 that?

13 A. Yes, sir.

14 Q. You've told me that you don't really
15 know what was happening in stores outside of the
16 four stores sitting in Anniston, correct?

17 MS. RUBIN: Object to form.

18 THE WITNESS: I don't. I didn't know
19 what was going on in the other stores.

20 BY MR. TURNER:

21 Q. And one of those four stores was
22 supervised by store manager Lockhart, correct?

23 A. Yes, sir.

24 Q. Who apparently had enough people working
25 for him that he only had to work 20 to 25 hours,

1 A. Yes, sir.

2 Q. First, do you agree with me that your
3 answer to it was yes? Correct?

4 A. Yes, sir.

5 Q. And do you agree with me that by
6 answering that, you were agreeing that you were,
7 in fact, doing management duties? The question
8 was whether you could do them better, correct?

9 A. I don't recall the question.

10 Q. Okay. Well, whether you were -- whether
11 you could have done a better job of being a
12 manager if you had more employees or not doesn't
13 detract from your testimony today that you were,
14 in fact, managing your store, correct?

15 MS. RUBIN: Objection.

16 THE WITNESS: Yes, sir.

17 BY MR. TURNER:

18 Q. You were asked whether your district
19 manager would tell you what to do. Do you recall
20 your counsel asking you that?

21 A. Yes, sir.

22 Q. Do you recall testifying to me that you
23 talked to Mr. Draughton on the phone approximately
24 one time a week and saw him in your store three --
25 every three months? Do you recall that?

1 A. Yes, sir.

2 Q. And he would send SYSMs, correct?

3 A. That's correct.

4 Q. And his SYSMs were about whether tasks
5 had been completed, correct?

6 A. Not all of them. Some of them were
7 things that he wanted us to do.

8 Q. Right. And then you would decide how
9 they were going to be accomplished in your store,
10 is your testimony earlier, correct?

11 A. Unless he said stop what you're doing
12 right now and go do this, it needs to be back into
13 the office before 3 o'clock today.

14 Q. What kind of things would he say needs
15 to be back into the office before 3 o'clock today?

16 A. Most of the time it was some CBT, maybe,
17 that needed to be done by an employee in the
18 store. It might be measuring departments in the
19 store. It might be getting -- calling around to
20 CVS and a grocery store and the service station
21 across the street, getting cigarette prices. It
22 could have been measuring your beer cooler for
23 footage. It could have been measuring your
24 magazine rack for footage. It could have been
25 measuring your American Greeting department for

1 footage.

2 But whatever he said do and said he
3 needed it back by 3 o'clock, you had to stop what
4 you were doing and go do it.

5 Q. Or have somebody else go measure,
6 correct?

7 A. I guess you could get somebody else to
8 do it, but you wanted to make sure that it was the
9 right -- the right thing.

10 Q. You would take it upon yourself to do it
11 because you didn't trust your employees to do it,
12 correctly, fair?

13 MS. RUBIN: Objection.

14 THE WITNESS: Not necessarily.

15 BY MR. TURNER:

16 Q. Sometimes you did, sometimes you didn't,
17 correct?

18 MS. RUBIN: Objection.

19 THE WITNESS: Most of the time, if you
20 just had a cashier on the front register and
21 you got a part-time cashier up there that
22 don't know nothing about what you're talking
23 about to start with, you go do it yourself.

24 BY MR. TURNER:

25 Q. To make sure it gets done right?

Page 278

1 Page_____Line_____should read:_____

2 Reason for change:_____

3

4 Page_____Line_____should read:_____

5 Reason for change:_____

6

7 Page_____Line_____should read:_____

8 Reason for change:_____

9

10 Page_____Line_____should read:_____

11 Reason for change:_____

12

13 Page_____Line_____should read:_____

14 Reason for change:_____

15

16 Page_____Line_____should read:_____

17 Reason for change:_____

18

19

20 _____

21 LUCILLE C. HULSEY

22 Sworn to and Subscribed before me

23 _____, Notary Public.

24 This_____day of_____2011.

25 My commission Expires:_____

JBM

Exhibit II

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 Civ. 9361 (PGG)

-----x
YATRAM INDERGIT, on behalf of himself
and others similarly situated,

Plaintiff,

vs.

RITE AID CORPORATION, RITE AID OF
NEW YORK, INC. and FRANK
OFFOR as Aider & Abettor,

Defendants.
-----x

April 23, 2009
10:09 a.m.

VIDEO DEPOSITION of Plaintiff,
YATRAM INDERGIT, taken by Defendants Rite
Aid Corporation and Rite Aid of New York,
Inc., pursuant to Notice and agreement,
held at the offices of Gibbons P.C., One
Pennsylvania Plaza New York, New York,
before Reva Weiss, a Notary Public of the
State of New York.

VERITEXT REPORTING COMPANY

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516-608-2400

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1 INDERGIT
2 profitability, correct?

3 A Yes.

4 Q Some stores in your district
5 were less profitable than yours, correct?

6 A Yes.

7 Q Why?

8 A Performance, I guess.

9 Q Performance of the managers?

10 A I guess, yes.

11 MS. KANE: Don't guess.

12 A Yes.

13 MS. KANE: If you don't
14 understand, ask him to clarify it.

15 A Yes.

16 Q The answer is "yes"?

17 A Yes.

18 Q What was it about those
19 managers that caused their store
20 performance to be different or less
21 effective than yours?

22 A I don't know.

23 Q Because you don't know what
24 they did, right?

25 A Maybe they --

1 INDERGIT

2 MS. KANE: Objection to form.

3 A I don't know what they did,
4 right.

5 Q You don't know what job duties
6 they performed on a daily basis, correct?

7 A Well, all stores have the same
8 duty. It just depends how they do it. I
9 don't know.

10 Q All stores have the same thing
11 that have to be accomplished?

12 A Accomplished, yes.

13 Q But each manager has the
14 discretion to determine how they should
15 be accomplished within their store,
16 correct?

17 A Yes.

18 Q And that's true for store
19 managers and assistant managers, correct?

20 A Yes.

21 Q So each store manager and
22 assistant store manager may run a store
23 in a completely different way, correct?

24 A Yes.

25 Q The ultimate goal just to make

1 INDERGIT

2 sure that all of the things that are
3 required to be done are done?

4 A Yes.

5 Q And as an example, there is a
6 daily tour sheet that is available as a
7 tour?

8 MR. TURNER: Strike that.

9 Q There is a daily tour sheet
10 that is available as a tool for managers
11 to use to determine what tasks need to be
12 accomplished, correct?

13 A On a daily basis, yes.

14 Q You used that sometimes but not
15 all the times, right?

16 MS. KANE: Objection to form.
17 Can you rephrase.

18 Q You used that sometimes but not
19 all times, correct?

20 A I used it.

21 Q Every day?

22 A All the time.

23 Q Are you aware that some store
24 managers do not?

25 A I don't know.

1 INDERGIT

2 Q Tell me how you would use that
3 daily tour sheet?

4 A Tour the store. Take the
5 sheets, go down each aisle and see what
6 got to be done.

7 The first is thing you have to
8 find out what come down from the
9 Corporate, what got to be done, which is
10 top priority. You go to the computer,
11 you make copies.

12 Q When you say "you," you mean
13 the managers?

14 A The managers.

15 Q Only the managers have access
16 to that, correct?

17 A Exactly. That's a code.

18 Q So you would each -- starting
19 out a day --

20 A That's right. You go to read
21 the SYSM, the messages.

22 Q So when you are determining a
23 work plan for the day, how to get things
24 done in the store, the first part of that
25 process would be seeing if there's any

1 INDERGIT

2 directive from Corporate that something
3 has to be done today?

4 A Yes. Such as a recall or
5 whatever.

6 Q And recalls, correct me if I am
7 recall, if something is recalled and you
8 don't get it out of your store, your
9 store can be charged for it, correct?

10 A Yes.

11 Q Yes?

12 A Yes.

13 Q And that would affect your
14 overall profitability, correct.

15 A Bottom line.

16 Q So you made sure that when you
17 got a recall, you got them turned around,
18 correct?

19 A Yes.

20 Q Would that come in an an e-mail
21 or the SYSM system?

22 A SYSM.

23 Q You would check that?

24 A That's a must.

25 Q If you were opening the store,

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1 INDERGIT

2 about what task you were going to do as
3 well?

4 A Yes.

5 Q You had the ability to make
6 determinations as to what task you would
7 perform, correct?

8 A Well, we saying this -- yes.
9 If the help provide -- if I had the
10 sufficient help. The manager usually do
11 it himself.

12 Q Tasks that had to be done, for
13 example --

14 A Yes.

15 Q -- would be making sure that
16 the product is properly faced?

17 A Yes.

18 Q Customer service?

19 A Yes.

20 Q You did customer service,
21 right?

22 A Yes.

23 Q Making sure that the product is
24 out on the floor?

25 MS. KANE: Just note my

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1 INDERGIT

2 objection.

3 A Yes.

4 MS. KANE: You are testifying as
5 to what was being done as opposed to
6 asking him what --

7 MR. TURNER: I'm asking him.
8 And it's not appropriate. If you want
9 to say something, three words, "object
10 to form."

11 MS. KANE: I object to form.

12 MR. TURNER: Thank you.

13 Q These are the tasks -- types of
14 things that would be happening, correct?

15 A Yes.

16 Q So you would have a list of
17 things that needed to be done.

18 A Right.

19 Q You could decide who did what,
20 correct?

21 A Like I said, if I have the
22 manpower, because I end up -- the manager
23 end up doing it himself.

24 Q How many employees were on your
25 list, on your payroll on a weekly basis?

1 INDERGIT

2 A On a weekly basis, a weekly or
3 daily basis?

4 Q Weekly.

5 A Weekly, I would say about 10 or
6 11. Including managers?

7 Q I'm just talking about non
8 managers.

9 A Okay.

10 Q Ten is your guess?

11 A No. Well, that's include the
12 managers. I would say eight, nine.

13 Q That was true for the last six
14 years, is that your testimony?

15 A Yes.

16 Q Did that include pharmacy?

17 A No.

18 Q So you would have employees
19 scheduled to be in your store to --

20 A Yes.

21 Q -- work.

22 And if -- what I'm -- I
23 understand you're saying that you had to
24 do some tasks because you didn't have
25 enough people, and we're going to talk

1 INDERGIT

2 would need to make it complete or
3 accurate?

4 A No.

5 Q You performed all of the duties
6 that are identified on that document,
7 correct?

8 A Yes.

9 Q And it accurately states what
10 your essential duties and
11 responsibilities were as a store manager,
12 correct?

13 A Yes.

14 Q And it accurately states your
15 supervisory responsibilities, correct?

16 A Yes.

17 Q Mr. Indergit, as I understand
18 your allegations in this lawsuit, you
19 claim that the total amount of
20 subordinate hours or time for subordinate
21 employees to work in your store decreased
22 and that you were not permitted to use
23 overtime.

24 A Yes.

25 Q Is that correct?

1 INDERGIT

2 A Yes.

3 Q Are you alleging that you could
4 never use overtime after January of 2002?

5 A Well, we used -- in other
6 words, we usually use overtime until the
7 cooperation come down with it there is no
8 overtime.

9 Q You say "the corporation." Who
10 told you that?

11 A Well, that comes from the -- if
12 it was in my computer SYSM.

13 Q And you saw a SYSM --

14 A Yes.

15 Q -- that said that you can
16 not --

17 A Sent by -- yes.

18 Q Go ahead.

19 A Sent by my supervisor.

20 Q Who was?

21 A Frank.

22 Q Mr. Offor sent a SYSM --

23 A Yes.

24 Q -- to you. Anybody else on it?

25 A No.

1 INDERGIT

2 Q Just to you?

3 A Yes.

4 Q That says you can't use
5 overtime?

6 A Yes.

7 Q That actually was in 2007,
8 correct?

9 A Well, 2000 -- this -- 2002,
10 2003 we get every problems we have from
11 that time on.

12 Q You say "we." I'm saying --

13 A Me.

14 Q You.

15 A Yes.

16 Q It was you.

17 A Yes.

18 Q Nobody else was on those SYSMs,
19 it was only you?

20 A I don't know who was on. When
21 you send a SYSM, you send it to me.
22 That's only management, that's me.

23 Q You did not see other managers'
24 names on that SYSM, correct?

25 A I guess you can do that. I

1
2 MR. TURNER: Subject to the many
3 stipulations that we have on this
4 deposition from the start, and subject
5 to his review of the documents in an
6 effort to speed things along, I will
7 suspend.

8 MS. KANE: Sounds good.

9 THE VIDEOGRAPHER: This
10 concludes today's deposition. The
11 time is 5:55. We are off the record.

12 (Time noted: 5:55 p.m.)
13
14
15

16 _____
YATRAM INDERGIT
17

18 Subscribed and sworn to before me
19 this ____ day of _____, 2009
20
21

22 _____
23 NOTARY PUBLIC

MY COMMISSION EXPIRES
24
25

Exhibit JJ

IN THE UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on)
behalf of himself)
and others similarly)
situated,)
)
Plaintiff,) Civil Action File
) No. 08Civ.9361
vs.) (PGG) (HBP)
)
RITE AID)
CORPORATION, RITE)
AID OF NEW YORK,)
INCORPORATED, and)
FRANK OFFOR as Aider)
& Abettor,)
)
Defendants.)

- - -

Deposition of GARY KING
(Taken by Defendants)
Atlanta, Georgia
August 1, 2011

Reported by: Lynne C. Fulwood
Certified Court Reporter

1 availability to be a strength?

2 A Well, with all the things happening
3 at the time of Rite Aid -- or not -- yeah, Rite
4 Aid acquisition and, you know, all the
5 districts realigning and everything, there was
6 a lot going on. And there would be a lot of
7 times that, you know, we'd have to talk about
8 things that had to be done, needed to be done,
9 what we needed to get them done. So
10 availability was very important at that time.

11 Q How often was Mr. Redmon in your
12 store while he was your district manager?

13 A I'd -- I'd say not more than once a
14 month.

15 Q And how often do you think you spoke
16 with him on the phone while he was your
17 district manager?

18 A At least once a week.

19 Q Did you think that Mr. Redmon trusted
20 your judgment as a store manager?

21 MS. RUBIN: Objection to form.

22 A Well, I'm sure he did to some extent,
23 but I mean, with the way all the plans are laid
24 out, you know, pretty much didn't rely on our
25 judgment, just our ability to accomplish the

1 tasks that needed to be accomplished.

2 Q But it would be fair to say that he
3 did rely on your judgment in terms of planning
4 how the tasks would be accomplished, right?

5 A I --

6 MS. RUBIN: Objection to form.

7 A I can only assume that he would. I
8 can't -- you never know what's on somebody's
9 mind, so --

10 Q Well, did he ask you what your plans
11 were?

12 A More times than asking it would be
13 more like telling me what my plans were.

14 Q Well, we'll start with my question,
15 which is did he ask you what your plans were,
16 and then we'll get to what you just said.

17 A Yeah, I'm sure at times he would ask
18 me what my plans were.

19 Q And at times he would tell you what
20 he needed you to get accomplished?

21 A More often than not, yeah, it was,
22 you know, you need to do this, this, this and
23 this, in this order, you know.

24 Q What was going on with your store
25 during that three months that Mr. Redmon was

1 supervising you?

2 A It was during -- that was during the
3 acquisition period, I believe.

4 Q And so your store was being
5 converted?

6 A Yes.

7 Q From what to Rite Aid?

8 A Eckerd.

9 Q And what was involved in the
10 conversion that you recall?

11 A Re- -- realigning the gondolas, the
12 painting and resigning, making it -- I mean,
13 making it look like Rite Aid -- like the
14 existing Rite Aid stores looked like,
15 remodeling.

16 Q And I take it these things would
17 involve different crews, work crews showing up
18 at your stores for different things to happen
19 on a given day?

20 A That's correct.

21 Q And so Mr. Redmon would let you know,
22 The next thing that's going to happen at your
23 stores, we're going to be painting, or whatever
24 it might be?

25 A Yes.

1 run. And then the rest of it was pretty much
2 computer based training.

3 Q And you've referred to computer based
4 training a few times today. By that you mean a
5 video that you watched on the computer screen?

6 A Correct.

7 Q Was it interactive training at all?

8 A There was some -- some interactive
9 training. One -- I mean, we did have one
10 register set up to where when you were at that
11 particular station doing register training, it
12 would have you do different functions that you
13 would do on the register.

14 But as far as office paperwork and
15 things like that, it was pretty much, you know,
16 just them telling you how it's done and then
17 giving you a quiz at the end of it.

18 Q Would you say that Rite Aid had a
19 sophisticated computer based process in its
20 stores while you were a store manager?

21 A Sophisticated. The training system
22 was -- I mean, it could be a very good tool,
23 but time allotted for it was what hindered it
24 from being what it could be.

25 Q I really intended my question to be

1 broader than training, so it probably wasn't a
2 good question.

3 Would you say that as a store manager
4 at Rite Aid you used sophisticated computer
5 equipment in your responsibilities?

6 A Oh, yes.

7 Q Do you remember how you communicated?
8 Other than by telephone or in person, on the
9 computer, how did you communicate?

10 A SYSMs.

11 Q And would you say that SYSMs were a
12 sophisticated communication system?

13 MS. RUBIN: Object to the form.

14 A Yeah, basically it's -- you know,
15 it's the equivalent of e-mail.

16 Q You viewed SYSMs as the equivalent of
17 e-mail?

18 A Yes.

19 Q Do you use a home computer?

20 A Yes.

21 Q What kind of system do you have at
22 home?

23 A I have one of those XP Professional.

24 Q Do you remember that SYSMs were
25 basically a green screen with a cursor

1 blinking?

2 A Well, yeah.

3 Q It didn't seem out of date to you?

4 A Well, if you put it that way, maybe,
5 but I mean, it was effective.

6 Q And when you were given the training
7 on you said computers and paperwork during the
8 transition from Eckerd to Rite Aid, who
9 provided computer based training?

10 A You have computer based training in
11 every store. It's a part of the overall
12 system.

13 Q I think I'm still not asking the
14 question well, because you're talking about the
15 video training that you can watch on the
16 computer, right?

17 A Well, that to me is computer based
18 training.

19 Q It is, you're right. That's why I'm
20 saying I'm not asking it very well.

21 Who provided you with training about
22 how to use the computers?

23 A How to use all of that stuff?

24 Q Yes.

25 A Okay. Well, that was that one day

1 A No. I think the biggest change from
2 going from Eckerd to Brooks Eckerd was the
3 color of the shelf labels.

4 Q So district managers while you were
5 store manager in order are Mike Jones,
6 Mr. Redmon, and then Mr. Kozemko?

7 A Yeah.

8 Q Any others while you were store
9 manager?

10 A Not while I was store manager, no.

11 Q What kind of working relationship did
12 you have with Micky Kozemko?

13 A We had a good relationship. We
14 didn't always see eye to eye, but --

15 Q What did you not see eye to eye with
16 Mr. Kozemko about?

17 A The fact that, you know, we couldn't
18 make any changes to the profit planner to make
19 more money in the store. The fact that he
20 liked to visit stores a lot, and he would spend
21 a lot of time in the stores, and that's time
22 taken away from you, store manager, to be
23 accomplishing things that needed to be done
24 that he's telling you during his visit that
25 need to be done, that you already know need to

1 be done but --

2 Q What did he do while he was in your
3 store?

4 A He would check all the paperwork,
5 make sure it was where it's supposed to be.
6 And then he would walk the store with you and
7 go -- I mean, he'd have the profit planner with
8 him, you know, making sure all the --
9 everything that's in the profit planner was set
10 the way it's supposed to be set, and then --
11 you know, nit-pick if you ask me.

12 Q You never had a district manager like
13 Mr. Kozemko before?

14 A No.

15 Q Were you ever disciplined by
16 Mr. Kozemko?

17 A Yes.

18 Q For what?

19 A Well, the alcohol incident, and then
20 he wrote me up for not being properly prepared
21 for an inventory.

22 Q The alcohol incident is the situation
23 where the employee sold --

24 A Underage sale, yes.

25 Q Why weren't you properly prepared for

1 inventory, or do you think you were?

2 A Well, I was prepared as I could be,
3 but I had to go to three other stores prior to
4 my inventory to assist them in their
5 inventories. And I -- you know, I told my
6 district manager, I got a lot to do, and, you
7 know, I'm spending all these days in these
8 stores unable to do what I need to do, you
9 know. And then the last day before he finally
10 sent his office assistant and her daughter to
11 my store to help me, and they did very little.
12 And, I mean, the inventory went fine, but he
13 still wrote me up for preparation.

14 Q Do you know whether her daughter was
15 a Rite Aid employee?

16 A Yes.

17 Q She was?

18 A Still is as far as I know.

19 Q Was she a manager?

20 A That's the Redmon clan.

21 Q The daughter was also a Redmon?

22 A Uh-huh.

23 Q Yes?

24 A Well --

25 Q You need to give the verbal response.

1 then. And this was around Christmastime when
2 it was high ticket electronics items that they
3 had specifically for Christmas sales.

4 And it was pretty evident he was
5 doing it, but, you know, he wasn't on film
6 doing it or anything like that. But finally
7 after they transferred him to the store they
8 transferred him to, they set up cameras and
9 caught him.

10 Q Do you remember an assistant store
11 manager named Lisa?

12 A Lisa. You have a last name?

13 Q No.

14 A Lisa.

15 Q No recollection? Griffin?

16 A Lisa Griffin. Oh, I think she was at
17 Polo Road maybe.

18 Q She -- actually it looks like she
19 went by Marika or something like that.

20 A I think I know who you're talking
21 about. She was a shift supervisor?

22 Q Well, let me ask it this way. Do you
23 remember disciplining an assistant manager
24 named Lisa for not completing work that you had
25 assigned to her?

1 A Yeah, that was her. Yeah.

2 Q And for taking too many smoke breaks?

3 We need a verbal response.

4 A Yes.

5 Q Thank you.

6 What else do you remember about Lisa?

7 A She was not -- I mean, when I hired
8 her, she sounded like -- I mean, she did a good
9 interview, but after she was hired, she was too
10 involved with her outside life and not involved
11 enough with the store. Like I said, she'd take
12 too many smoke breaks, and she'd take them
13 because she'd be out there talking on the
14 phone. And, I mean, the work load -- it's bad
15 enough when everybody's doing their job, and
16 when somebody's not doing their job, the work
17 load is worse. So she just -- I mean, she
18 wasn't the right candidate for the job. She --
19 I think she quit, pretty sure.

20 Q But you hired her?

21 A Her mother worked at another store
22 and asked me if I needed -- well, her mother
23 knew that I did need a shift supervisor at the
24 time and recommended her, so I gave her name to
25 the district office, and actually the district

1 manager is the one that hired her.

2 Q I thought you said a second ago, when
3 I interviewed her, she --

4 A Yes, I interviewed her prior to
5 sending her to the district manager.

6 Q And then you think that she quit on
7 her own?

8 A Yeah. You know, after I wrote her
9 up, she I guess came to the realization that I
10 wasn't just going to sit back and let her slack
11 and then everybody else have to take up her
12 slack.

13 Q How many times were you injured while
14 you were working as a store manager for Eckerd,
15 Brooks Eckerd or Rite Aid?

16 MS. RUBIN: Objection to form.

17 A I slammed my thumb in the door on one
18 occasion. That was a really good one. I had
19 to go and have them drill a hole in my thumb to
20 relieve the pressure on that one.

21 Then on that inventory that I got
22 written up for, a couple of days before the
23 inventory I had dropped a shelf on my foot, had
24 to go see a doctor for that. And they told me
25 to stay off my foot, but they wouldn't give me

1 an excuse for work, so I had to work on a bad
2 foot during the inventory.

3 But the most prominent is when I was
4 rear ended going to the bank. That was the
5 straw that broke the camel's back there.

6 Q The thumb-in-the-door injury, did you
7 miss any work related to that?

8 A No. I didn't miss any work for that
9 or for dropping the shelf on my foot.

10 Q And when were you rear ended going to
11 the bank?

12 A That was April of '09.

13 Q Did you miss work as a result of that
14 accident?

15 A I sure did. That's why I am like I
16 am now.

17 Q How long were you out of work?

18 A That was the workers' comp case.
19 From that day and -- from that day on.

20 Q So you didn't return to work after
21 April 2009?

22 A No. I had surgery on my shoulder,
23 and they did numerous things to my back, but
24 nothing helped my back. My shoulder, it's
25 marginal. But, you know, I haven't been back

1 location. Like when they set the profit plan,
2 it could be something that you moved to an end
3 cap, but it also has a location within the
4 regular planogram, so you have to determine,
5 you know, if you do have it or if it's
6 something that has been lifted.

7 Q What do you mean "lifted"?

8 A Stolen.

9 Q Did Brooks Eckerd have a system that
10 told you how many items you were supposed to
11 have?

12 A It was in its infancy when Rite Aid
13 took over. They were working on it, but it
14 never really got into full swing.

15 Q So do you know what I mean when I say
16 inventory replenishment?

17 A Yes.

18 Q What is that?

19 A That's where anything that goes
20 through point of sale, it should automatically
21 be replenished through the -- through the
22 replenishment system. You should receive it on
23 the truck within a week after it's been sold.

24 Q As a store manager, did you ever
25 override the automatic replenishment?

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Gary King August 1, 2011

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1 A We were allowed to do that when Rite
2 Aid first took over, and we were trying -- you
3 know, the system -- trying to get the system to
4 where it was caught up to what we actually had
5 and what we didn't have. But once they decided
6 we'd had long enough for that to happen, then
7 there was no overriding the system.

8 Q And you didn't have that automatic
9 replenishment system at Eckerd or Brooks
0 Eckerd?

1 A No.

2 Q As a store manager, could you add to
3 your ordering?

4 A The only thing that we could do as
5 far as ordering was -- was to -- they had ad
6 orders where you could -- you know, they give
7 you a list of what's going to be on sale at a
8 certain time, and you could, you know -- you
9 could decide within so much whether you thought

20 you needed more or not. But if you thought you

21 were going to need a lot of something and the

2 system didn't think so, it would be up to the

13 discretion of the district manager whether or

24 not you could order what you wanted to order or

25 not.

1 Q Were there times that you asked your
2 district manager to order more of a particular
3 ad item?

4 A Well, the way it worked is you went
5 in and you put in what you thought you needed,
6 and the district manager had to review them.
7 And I don't ever remember an occasion of him
8 calling to say, no, you don't need this many or
9 whatever. He just -- if he didn't think I
10 needed what I thought I needed, he'd just
11 change it, and, you know, that's how it was.

12 Q Did he ever increase it?

13 A I don't think so.

14 Q Could you tell, was there something
15 that you saw to show that he increased -- I'm
16 sorry -- decreased a number that you had
17 ordered?

18 A Yeah, on particularly -- you know, on
19 a lot of sale items, you know, something that's
20 a really good sale, and you know you're going
21 to sell a lot, and come truck day and you get
22 two of them, well, somebody changed it because
23 you know you ordered more than two and you only
24 got two.

25 Q My question really, though, was did

1 Q What did you mean a minute ago when
2 you said sometimes it was required?

3 A If you had a lot of outs in your
4 store, you were required to go to one of your
5 neighboring stores to get merchandise that
6 you're out of so that you won't be out of the
7 merchandise.

8 Q Were you responsible for ensuring
9 that price changes happened in a timely manner
10 in your store?

11 A It was a responsibility, yes.

12 Q Did you think it was important that
13 price changes happen in a timely manner?

14 A It's a very important aspect of the
15 store because it affects the bottom line of the
16 store. And not only that, it's -- it can be an
17 issue with the state if you're ever audited and
18 have a lot of shelf signs that are incorrect.

19 Q Did you order your own seasonal
20 merchandise?

21 A No. I mean, we could give input on
22 what we thought we needed for some seasonal
23 merchandise, but for a lot of it, they sent you
24 whatever they were going to send you anyway.
25 It was -- I mean, they just determined by the

1 volume of your store what to send you.

2 Q I think you just said we could give
3 input. Did you actually give input?

4 A On the stuff that we were allowed to
5 say, do you think you need more of, like stuff
6 that, you know, was going to be on ad that was
7 seasonal merchandise, then we could say, yeah,
8 we -- you know, if they said we only needed
9 two, and we thought, you know, we needed more,
10 we could say we needed more.

11 Q Did you?

12 A Yes.

13 Q Okay.

14 A Yes. Didn't always get it but did
15 ask.

16 Q If you were in the store, did you
17 generally check in vendors yourself?

18 A No, not -- it just depended on what
19 was going on. If I and the assistant were both
20 in the store, then whoever was -- could
21 easily -- more easily go and check in the
22 vendor was the one that did it. It's -- I
23 mean, it wasn't something that had to be done
24 by myself.

25 Q It could be done by you or your

1 assistant manager?

2 A Yes. Well, actually, the cashiers
3 could do it too.

4 Q Did you ever have your cashiers check
5 in vendors?

6 A There have been times when we were
7 extremely busy, like a vendor come in on truck
8 day, and I'm busy unloading the truck, well,
9 there's not much choice but for the cashier to
10 check them in because they don't usually leave
11 and come back later.

12 Q Did you process vendor invoices
13 yourself?

14 A At times, yeah.

15 Q What types of vendors came in your
16 store while you were a store manager?

17 A Beer vendors, snack vendors and
18 frozen goods vendors.

19 Q Did you sell any liquor in your
20 stores other than beer?

21 A No. Oh, wait, we did have wine.

22 Q In which store?

23 A All of the stores had wine.

24 Q Did you have the ability to get other
25 liquor products for your store?

1 whether you were opening or closing?

2 A Yes. There was more paperwork
3 involved with opening than closing.

4 Q And what were the types of monthly
5 paperwork you did as a store manager?

6 A You had a P&L statement to do,
7 attendance report, monthly sales report, a
8 monthly known loss report. I think that's all
9 I can think of.

10 Q Weren't there also weekly reports or
11 paperwork that you had to complete as a store
12 manager?

13 A Yeah, trying to -- yeah, there were
14 weeklies. I'm having trouble recalling what
15 they were called.

16 Q Well, we talked earlier about the
17 schedule. I assume you did that weekly?

18 A Yeah. Yeah.

19 Q Weren't there also weekly payroll
20 reports?

21 A Yes, there was.

22 Q And did you handle those, or did you
23 also let your assistant store manager do weekly
24 payroll?

25 A It was a shared responsibility.

1 Q And when you said that the P&L
2 statement was something monthly you had to do,
3 what did you do with the P&L statement?

4 A Basically entering figures, what --
5 the P&L would give you what was projected and
6 the previous year's sales, and you had to enter
7 what your current year sales was and make sure
8 all the pluses and minuses were -- you know,
9 whether your sales were up or down and what
10 categories they were up and down. That
11 basically -- and entering, you know, what your
12 final for the month was into the system, and it
13 computed what your percentages were compared
14 to your previous year.

15 Q As a store manager did you study the
16 monthly P&L statement in order to make changes
17 in your store?

18 A Making changes in the store was
19 something that was hard to do. About the only
20 changes I could make was deciding what time
21 somebody came in. But, I mean, making changes
22 in the store was not something you did. If a
23 store was made -- a change was made in the
24 store other than personnel, it was made by
25 upper management.

1 Q You felt you had no ability to make
2 changes in your store after evaluating the
3 profit and loss statement?

4 A Not really, no.

5 Q Well, "not really" is one of those
6 answers that always makes us nervous as
7 lawyers.

8 A I mean, you know, basically what that
9 would tell me, which it should also tell
10 corporate that was making all the decisions, is
11 that, you know, I mean, I could see areas that,
12 you know, could have done better and see the
13 areas that did do better. But, I mean, there
14 was really nothing I could do to effectively
15 change, you know, the areas that didn't do
16 well. I mean, you know, we're given this
17 guideline, and this is what we have to have in
18 our store.

19 And, you know, some categories that
20 started doing really bad, you know, I knew
21 there were things that could be done, and I
22 even told my district manager -- you know, for
23 one example I was in an area where people like
24 to do cookouts, so, I mean, we could have sold
25 probably a ton of charcoal a year. But the

1 only time we had charcoal was in the summer,
2 but people cookout all year long. And, you
3 know, I mean, I couldn't keep charcoal in my
4 store when I had it.

5 And there were other items too in the
6 same category, but there was nothing that I
7 could do.

8 Q So you asked to be allowed to have
9 charcoal in the store at other times other than
10 summer?

11 A Yeah, charcoal and other summer
12 products. Sunscreen is another one. You know,
13 there for a long time they only had sunscreen
14 in the summer. They finally started putting
15 that back in the store on a regular basis to
16 some extent. But that was another product that
17 in the wintertime, especially older customers,
18 you know, they sunburn easily, and they come in
19 looking for sunscreen. And I'm like, well,
20 sorry, we only have that in the summertime, and
21 they're like, well, the sun's out all year
22 long. And, you know, I'm like, yes, I agree
23 with you, but it wasn't a decision that I could
24 make.

25 Q But that was something that changed

1 while you were still a store manager?

2 A That one did, I will say. I mean,
3 they did -- they don't carry the full line all
4 year long, but they did start carrying certain
5 types of sunscreen all year long.

6 Q Are you able to say, for example, how
7 much time you spent working on your profit and
8 loss statement or analyzing your profit and
9 loss statement as a store manager each month?

10 A Each month, I'd review it several
11 times a month, so I'd say probably eight to ten
12 hours a month.

13 Q And is that just an estimate?

14 A That would be the minimum.

15 Q So you may have spent more?

16 A Yes.

17 Q And would you agree that in order for
18 Rite Aid to know, for example, how much time
19 each store manager spent on their monthly P&L
20 statement, they'd have to talk to each store
21 manager?

22 A I guess that would be a fair
23 assessment.

24 Q What if I asked you a question like,
25 in the month of December of 2008 how much time

1 questions. Can I take a few minutes?

2 MS. BARBAREE: Sure.

3 (Whereupon, a brief recess was
4 taken.)

5 EXAMINATION

6 BY MS. RUBIN:

7 Q So, Mr. King, when you opened the
8 store, what time would you typically get there?

9 A I typically would get to the store at
10 least an hour and a half before opening.

11 Q Why did you get to the store that
12 early?

13 A That would give me more time to
14 accomplish some tasks that would be difficult
15 to accomplish after opening the store.

16 Q Tasks like what?

17 A Planograms, resetting end caps in
18 accordance with the profit planner. Those were
19 the big things.

20 Q And why did you feel you could not
21 get those done?

22 MS. BARBAREE: Objection; form.

23 A Once the store is open, you have
24 interruptions. And the less interruption you
25 have when doing planograms and resetting end

1 caps, it just makes the job go a whole lot
2 quicker, smoother.

3 Q Okay. How much time in a given day
4 would you say you spent doing managerial
5 duties?

6 MS. BARBAREE: Objection; form.

7 A In a given -- any given day, five
8 hours.

9 Q Okay. And what percentage of time
10 would you say you spent doing nonmanagerial
11 duties?

12 MS. BARBAREE: Objection; form.

13 A Typically I was in the store ten to
14 12 hours a day, so I'd say anywhere from five
15 to seven hours.

16 Q When you opened the store and you
17 were on the cash register, were you able to see
18 the entire store?

19 A No.

20 Q Did that affect your ability to
21 manage?

22 MS. BARBAREE: Objection; form.

23 A Anytime I was on the cash register,
24 that -- I mean, that made it pretty much
25 impossible to perform managerial duties.

1 Q How did doing nonmanagerial work
2 affect your ability to manage?

3 MS. BARBAREE: Objection; form.

4 A Well, the nonmanagerial stuff
5 performed -- you know, it took away -- you
6 know, just how to put it. When you're setting
7 a planogram, you're pretty much just setting a
8 planogram. You don't know what your cashier's
9 doing up front, and you don't know what they're
10 doing in the pharmacy because you're right
11 there. You can't see either place. You're
12 right there where you're working on a
13 planogram.

14 So, I mean, you can't see if there's
15 something going on that you could effect or
16 not.

17 Q Were you able to promote customer
18 service when you were working on a planogram?

19 A If a customer come to where I was
20 work on the planogram, yes, I could say, oh,
21 hi, how are you doing? Is there anything I can
22 help you with? But if they were two aisles
23 over, I wouldn't know. So if they needed help,
24 and they didn't track me down, then, no,
25 customer service was not being done.

1 Q Were you able to promote customer
2 service when you were on the cash register?

3 A Effectively, no. I mean, you could
4 greet the customer when they come in the store,
5 but if they needed to know where something was,
6 you could try to tell them where it was at.
7 But to physically be able to take them to the
8 product, which was what we were supposed to do,
9 you're not able to do that if you're running a
10 cash register.

11 Q Was there anything that you did as a
12 store manager that your assistant store manager
13 and shift supervisor did not do?

14 MS. BARBAREE: Objection to form.

15 A The only thing different for me and
16 the assistant was I had a key to the personnel
17 file. They did not.

18 Q Did anyone else have that key?

19 A HR.

20 Q Okay. Did you have the ability to
21 choose which vendor you wanted to come to your
22 store?

23 A No.

24 Q Did you have the ability to decide
25 where to put security cameras?

1 MS. BARBAREE: Objection; leading.

2 A No.

3 MS. RUBIN: That's all I have.

4 EXAMINATION

5 BY MS. BARBAREE:

6 Q Now, earlier when I asked you about
7 planograms, you said that you were constantly
8 interrupted, correct, while you were working on
9 planograms?

10 A Anytime, yes, if the front end or
11 back end needed change, or they had a customer
12 issue, yes.

13 Q I assume you would also stop to see
14 what was going on in the store from time to
15 time?

16 A From time to time.

17 Q Make sure your employees were
18 actually working?

19 A Yes. But it was not something that I
20 could do constantly, you know.

21 Q Did I understand you to say a second
22 ago that helping out on the cash register is
23 not promoting customer service?

24 A Not helping out. If I went up to --
25 because there were a lot of customers, that

E R R A T A S H E E T

Pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or Georgia Code Annotated 81A-130(B)(6)(e), any changes in form or substance which you desire to make to your deposition testimony shall be entered upon the deposition with a statement of the reasons given for making them.

To assist you in making any such corrections, please use the form below. If supplemental or additional pages are necessary, please furnish same and attach them to this errata sheet.

- - -

I, the undersigned, GARY KING, do hereby certify that I have read the foregoing deposition and that to the best of my knowledge said deposition is true and accurate (with the exception of the following corrections listed below).

Page_____ Line_____should
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